

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

-----x  
UNITED STATES OF AMERICA, : Criminal Action No.:  
: 1:21-cr-264  
versus :  
:   
FARHAAD RIYAZ, : Tuesday, March 22, 2022  
:   
Defendant. :  
-----x

The above-entitled sentencing was heard before the  
Honorable Leonie M. Brinkema, United States District Judge.  
This proceeding commenced at 9:53 a.m.

A P P E A R A N C E S:

FOR THE GOVERNMENT: RUSSELL CARLBERG, ESQUIRE  
OFFICE OF THE UNITED STATES ATTORNEY  
2100 Jamieson Avenue  
Alexandria, Virginia 22314  
(703) 299-3700

FOR THE DEFENDANT: DANIEL GROOMS, ESQUIRE  
JOSHUA SIEGEL, ESQUIRE  
COOLEY LLP  
1299 Pennsylvania Avenue, NW  
Suite 700  
Washington, D.C. 20004  
(202) 842-7800

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

P R O C E E D I N G S

THE DEPUTY CLERK: Criminal Case 21-264, United States of America versus Farhaad Riyaz.

Would counsel please note their appearances for the record.

MR. CARLBERG: Your Honor, good morning again. Russell Carlberg for the United States.

THE COURT: Mr. Carlberg.

MR. GROOMS: Good morning, Your Honor. Daniel Grooms and Joshua Siegel on behalf of the defendant, Farhaad Riyaz.

THE COURT: All right. Mr. Grooms, this matter comes on for sentencing.

Have you had enough time to go over the presentence investigation report yourself and with your client?

MR. GROOMS: I have, Your Honor, yes.

THE COURT: In particular, did you carefully go over pages 22 through 24, which lists all the conditions of supervision?

MR. GROOMS: We did, Your Honor, yes.

THE COURT: All right. Are there any factual corrections, changes, additions or deletions you want made to the report?

MR. GROOMS: No, Your Honor.

1           THE COURT: Then as you know, the probation office  
2           calculated the offense level here as a Level 16. Your  
3           client has a criminal history of one. The advisory range is  
4           21 to 27 months of incarceration. There's a one- to  
5           three-year period of supervised release. The fine range is  
6           \$10,000 to \$779,298.18. Restitution in this case is  
7           \$312,964.38, and a \$100 special assessment.

8           And my understanding is that you're not disputing  
9           any of those calculations.

10          MR. GROOMS: That's correct, Your Honor.

11          THE COURT: All right. And do I understand  
12          correctly that the restitution has been completely paid?

13          MR. GROOMS: It has, Your Honor, yes.

14          THE COURT: So we'll do the same thing in this  
15          case that we just did previously.

16          I assume there's a restitution order?

17          MR. CARLBERG: We have executed this fully and are  
18          prepared to hand it up.

19          THE COURT: All right. And, again, that will be  
20          clearly reflected both in the minutes of today's hearing, as  
21          well as on the judgment order that restitution has been  
22          paid.

23          MR. GROOMS: Thank you, Your Honor.

24          THE COURT: All right. And, Counsel, I've gone  
25          over all the paper in this case, and obviously this is a

1 very difficult case because of the defendant's extensive  
2 well documented mental health issues, which we don't need to  
3 go into great detail on the public record because it's well  
4 documented on the papers.

5 On that basis, the Government has requested and  
6 agreed to a variant sentence. The Government has  
7 recommended in this case a sentence of ten months of  
8 incarceration followed by a period of supervision, a fine of  
9 \$50,000, and that's -- and, of course, the restitution,  
10 which has been taken care of.

11 Was there anything you wanted to add to that,  
12 Mr. Carlberg?

13 MR. CARLBERG: No, Your Honor. I simply would be  
14 prepared to answer any points that the -- you know, to --  
15 there's some points in the defense brief and so forth that,  
16 you know, I might have some issues with. But I think  
17 overall that's absolutely correct, and the Government fully  
18 briefed its position and is recommending the ten months, and  
19 the \$50,000 fine is appropriate in this case given all the  
20 factors.

21 Did you want me to address --

22 THE COURT: What are the issues that trouble you  
23 or that you want to clarify?

24 MR. CARLBERG: Yeah. Your Honor, if I may have  
25 one moment just to bring my papers up here.

1           Your Honor, I would note that I did -- I was able  
2 to check with the Bureau of Prisons in terms of --  
3 Mr. Grooms was -- allowed me to send the presentence  
4 investigation or report to the Bureau of Prisons to make  
5 sure that the defendant can receive the same medications and  
6 therapy if he were to serve a term of custody and a term of  
7 imprisonment in their custody, and they indicated that they  
8 could accommodate him, that these medications were  
9 available.

10           I do have an email from Diana Lee at the Bureau of  
11 Prisons to that effect, and I could hand that up to the  
12 Court. And I have a copy for Mr. Grooms as well. One  
13 second. Let me hand also the -- that's the Bureau of  
14 Prisons also sent me -- it's a list of approved First Step  
15 Act programs. And they've, you know, indicated those  
16 programs are fairly extensive in terms of mental health  
17 specific programs. So --

18           THE COURT: Are these -- I'm sorry. Are these  
19 available at all facilities or only at certain specialized  
20 facilities?

21           MR. CARLBERG: I don't know the answer to that  
22 question, Your Honor. I don't know. I didn't ask that  
23 specific question in terms of specific facilities.

24           But, Your Honor, I would imagine a candidate such  
25 as Mr. Riyaz would be a good candidate to be recommended to

1 Butner, for instance, where they do have everything, and  
2 they do have a camp there. So since he's most likely  
3 low-risk -- low security risk, I imagine a Court's  
4 recommendation to a camp at Butner might be well received by  
5 the BOP.

6 And, Your Honor, I would note that the main  
7 concerns here are that the Government believes that a  
8 completely probationary variant sentence of no jail would  
9 send the wrong message to this defendant, who, as the Court  
10 said in the previous case, you know, there is -- in white  
11 collar crimes, there is a level of thinking and complexity  
12 and planning involved, and this case has it in spades  
13 because of the -- that's what the Government called out.

14 THE COURT: Well, but this case has a very unique  
15 and very sad factor, and that is the type of mental illness  
16 that this defendant suffers from is one that almost takes  
17 over traditional volitional conduct. Not to the level of,  
18 you know, criminal insanity, which would be a completely  
19 different ball game, but basically when someone is in that  
20 particular, you know, manic state, they are just out of  
21 control. And the conduct here going on for years -- I mean,  
22 the troubling factor here is that a doctor would not  
23 recognize -- both because of the family history and because  
24 of his, you know, training, would not have recognized that  
25 he suffered from this problem. But, you know, the old

1 saying, doctor, heal thyself. I mean, unfortunately -- and  
2 this is a perfect example of that that is that Mr. --

3 MR. CARLBERG: Your Honor, the Government doesn't  
4 quibble with that. But I would note that manic episodes,  
5 according to the DSM-IV and other sources that I've looked  
6 at, you know, they don't typically last for three and a half  
7 years. I mean, they come and go and they're interspersed  
8 with periods of depression. And I don't think it completely  
9 explains the conduct and that there were choices involved  
10 here.

11 But clearly the Government recommends a variance  
12 because it is also concerned about the mental health issue  
13 and believes that that does provide some explanation for the  
14 conduct here and is deserving of some variant sentence, and  
15 a substantial one.

16 But, nevertheless, the Government believes that  
17 the defendant could do some period of time in the Bureau of  
18 Prisons and receive treatment -- receive uninterpreted  
19 treatment and receive counseling and medication, and that  
20 would give him some opportunity to understand the gravity of  
21 what he has done outside of the confines of, you know, a  
22 non-custodial sentence.

23 THE COURT: All right. Thank you.

24 Mr. Grooms.

25 MR. CARLBERG: Thank you very much.

1 MR. GROOMS: Yes, Your Honor.

2 Just as a preliminary matter, we do have some  
3 additional letters to pass forward to make part of the  
4 record. They were received after the submission of our  
5 sentencing papers.

6 THE COURT: All right.

7 MR. GROOMS: And I'll just note, Your Honor,  
8 those -- the first of those documents Dr. Riyaz's daughter's  
9 condition and her need.

10 THE COURT: Which is also going to be a factor the  
11 Court will consider.

12 MR. GROOMS: Thank you, Your Honor.

13 The second recognized is some of his extensive  
14 volunteer work that he has performed. And the other  
15 recognized what the Court has acknowledged, that this  
16 behavior is, to quote those letters, a bizarre deviation and  
17 creates cognitive dissonance when you look at Dr. Riyaz, the  
18 person and the doctor and the life he has led, other than  
19 the conduct before this court.

20 And I won't belabor the point, Your Honor. I will  
21 note that we all agree a guideline sentence is not warranted  
22 here, would not be appropriate here. And I appreciate that  
23 the Government has recognized that fact. We do disagree on  
24 the extent of a variance that's appropriate given the  
25 circumstances here. And the factors in 3553(a). I think



1 the important question is why this conduct occurred, and I  
2 think the Court recognizes that.

3 I will -- in response to some of the points the  
4 Government made in its papers, I will note that this was not  
5 done for profit. I don't think anyone suggests that it was.  
6 This was not behavior done for greed, to have items to use  
7 them. The Government's own submission and the photographs  
8 included shows items that were kept unused in his basement.  
9 They were still in their original packaging.

10 And then finally, this wasn't the conduct of  
11 someone seeking to be a high-end collector of items. The  
12 Government suggested that, but the photos of the expensive  
13 items that Dr. Riyaz had, including the guitar, someone  
14 collecting items like those would prominently display them  
15 in a home or an office or somewhere else. That was not the  
16 case here. They were stacked in the basement like luggage  
17 at an airport baggage claim.

18 It's not a mystery, it's not in debate why this  
19 conduct occurred. The record shows a clear reflection of  
20 that in Attachment A of our submission papers; it goes into  
21 great detail on that. I won't go through everything, but I  
22 will note two things. One, you see the conduct is not just  
23 consistent, but is on all four with the classic  
24 manifestations of this condition: Excessive spending, a  
25 sense of grandiosity, compulsive behavior and hoarding, a

1 sense of persecution and delusional thinking. All of those  
2 things are consistent with an episode.

3 And I will respond to one thing Mr. Carlberg said.  
4 I could pass forward, if the Court wished and make part of  
5 the record, research on the course of episodes in this type  
6 of disorder, but the evidence is from studies that the  
7 average episode lasts for months, and that in more than a  
8 quarter -- or approximately a quarter of the cases, I  
9 apologize, in approximately a quarter of cases, the episodes  
10 go on for a year or more. So it's not at all uncommon to  
11 have expensive periods of time where someone is in a state  
12 that would lead to this type of conduct and this type of  
13 behavior.

14 This understanding of the reason, what drove the  
15 behavior -- and I think the Court recognizes, it's not an  
16 effort to deflect responsibility. Dr. Riyaz understands  
17 he's responsible for this conduct, he understands there are  
18 consequences for that. But as to what consequences are  
19 appropriate, as to what consequences can address this  
20 conduct appropriately, we would submit that a lengthy  
21 sentence of imprisonment, and ten months of imprisonment  
22 would be a lengthy sentence of imprisonment, is not  
23 necessary to accomplish deterrence, punishment,  
24 rehabilitation whatsoever in this case.

25 The Government asked in its papers what's to stop

1 Dr. Riyaz from engaging in this conduct in the future to  
2 repeat what he did in the past. The simple question is,  
3 what has changed since 2017, or, indeed, since 2020. And  
4 that's treatment. The answer is the treatment that has been  
5 successful for the past two years would be interrupted by a  
6 sentence of imprisonment.

7 And notwithstanding what Mr. Carlberg says, we  
8 don't dispute BOP would say that they have the ability to  
9 provide the same medications. The therapy and the treatment  
10 that Mr. Riyaz has received has been remarkable in its  
11 effectiveness and its success. I think that's documented in  
12 the paperwork. And I would submit it's not realistic to  
13 expect that that would continue uninterrupted during a  
14 period of lengthy imprisonment.

15 I would note there have been consequences in this  
16 case to date. There have been significant personal  
17 consequences for Dr. Riyaz, for his family. The collateral  
18 consequences on people who are victims of this offense as  
19 well, not in the way that Amazon is, but are victims of  
20 Dr. Riyaz's conduct, and he recognizes that. He can speak  
21 to that more eloquently than I can myself.

22 There have been professional consequences.  
23 Dr. Riyaz has lost employment. He has lost, at least  
24 temporarily, his ability to practice in many jurisdictions.  
25 Frankly, imprisonment could make those consequences

1 permanent.

2           And there have been financial consequences to  
3 date. He has lost significant income, as reflected in the  
4 presentence report. There have been significant costs to  
5 date well above the payment of full restitution, well above  
6 the forfeiture in this case that Dr. Riyaz has not contested  
7 in his plea agreement.

8           And I would note two things, Your Honor. There  
9 are two unaddressed bases for variance in the Government's  
10 papers, or not fully addressed, that we would submit warrant  
11 a significantly greater variance than the Government  
12 suggests and would make the appropriate sentence here  
13 probation.

14           The first are the effort to cooperation and  
15 substantial assistance. Those were documented in our  
16 papers, we won't go through the details of that conduct, of  
17 those efforts. But while they may not have given rise to a  
18 motion by the Government, we submit they are appropriate to  
19 take into account when determining the extent of a variant  
20 warranted in this case.

21           And then, finally, the need to avoid unwarranted  
22 disparities. While there are a few cases -- there are no  
23 cases that are like this one in terms of what gave rise to  
24 the conduct. But in terms of the type of conduct, there are  
25 a handful of cases that reflect that type of conduct, and I

1 would point out the *Sides* case, which we cited and submitted  
2 to the Court in our papers, reflects similar conduct, albeit  
3 more aggravated and that it was done for profit, it was not  
4 done with the mitigating circumstances that exist here.  
5 It's a case in the Northern District of Florida which  
6 resulted in a sentence of probation with extensive community  
7 service. We would submit that a similar sentence is  
8 warranted here to avoid unnecessary and unwarranted  
9 disparities in this case.

10 Your Honor, ultimately the appropriate sentence we  
11 would submit is one of probation, one that includes a  
12 mandate of a continued extensive treatment, the treatment  
13 that Dr. Riyaz has been receiving. This is an ongoing  
14 condition. It won't be cured, it wouldn't be punished into  
15 submission. It does need to be stabilized, and it does need  
16 continued ongoing treatment. Dr. Riyaz recognizes that.

17 And if the Court in any way disagrees and believes  
18 that some loss of liberty is an appropriate sanction,  
19 respectfully, we disagree, but we would say there are ways  
20 the Court can impose that while not interrupting that  
21 treatment through home detention, through intermittent  
22 confinement, through something along those lines.

23 But we would submit that an appropriate sentence  
24 here would take into account what gave rise to this conduct  
25 and how best to both deter it and, in fact, prevent it in

1 the future.

2 Thank you, Your Honor.

3 THE COURT: All right. Was there anything,  
4 Mr. Carlberg, you wanted to respond with?

5 MR. CARLBERG: Your Honor, I don't want to  
6 quibble. I just would say that to say it's not for profit I  
7 think is a little inaccurate when somebody is getting \$2,500  
8 guitars for a price of \$250 and amassing a collection in the  
9 basement. And whether they're prominently displayed or not,  
10 they were there in his basement for him to look at and use  
11 and enjoy. And there was a willful aspect to this. He was  
12 able to carry on this scheme at the same time he was  
13 performing surgeries all over the place and performing at a  
14 very high level.

15 The Government -- the Government is not really in  
16 a position to get into the details of the DSM-IV and of  
17 Dr. Voss's report, but I would submit that a three-year  
18 manic episode seems a little hard to buy in this case, but  
19 the Government understands the need to variant and  
20 understands that an appropriate sentence here should not be  
21 too long of incarceration, but still believes firmly that a  
22 request for some period of incarceration is appropriate, if  
23 nothing more than also for general deterrent purposes.

24 The defendant in North Carolina that the defense  
25 points to apparently got no jail at all, and that's not

1 deterring people. And other people are watching this case,  
2 as Mr. Grooms pointed out, and there is the concern for  
3 general deterrence. And just because the victim is Amazon  
4 doesn't mean that somebody has a right to rip it off and not  
5 serve any time.

6 THE COURT: Well, my understanding from the  
7 presentence report is that although Amazon was the victim  
8 involved in this case, that there is documented instances  
9 going back to 2014 of this pattern of making purchases over  
10 the internet and then returning the item but the same item  
11 doesn't go back.

12 MR. CARLBERG: That's right.

13 THE COURT: In other words, it's a swap. So my  
14 understanding is that Nordstrom, Nike and several other  
15 retailers were also affected by this kind of conduct, and  
16 apparently this is something that you can go on the internet  
17 now and find out ways in which to scam Amazon and other  
18 online retailers with these false return schemes.

19 So I'm not sure that just focusing on Amazon as  
20 the victim is an accurate picture of what went on here.

21 MR. CARLBERG: That's absolutely correct, Your  
22 Honor. And there was other conduct. Unfortunately, those  
23 retailers didn't document it as well as Amazon. But that  
24 was pretty clear from the evidence that he engaged in  
25 similar return conduct with respect to Nike and Mr. Porter

1 and others.

2 THE COURT: All right.

3 MR. CARLBERG: Thank you, Your Honor.

4 THE COURT: Mr. Grooms, anything further?

5 MR. GROOMS: No, Your Honor.

6 I would note, we don't dispute that whatsoever.  
7 It is the case that Dr. Riyaz spiraled out of control. And  
8 I do not say that in a way to say that it was not  
9 volitional, but out of control in that his conduct went far  
10 much beyond any sense of proportion or scale because he had  
11 a warped sense of proportion and scale.

12 THE COURT: And you realize, though, that if  
13 Nordstrom or Nike or one of those other vendors had brought  
14 charges earlier, it might not have escalated to the extent  
15 that, you know, he was going on Amazon and getting, you  
16 know, what, 30, \$40,000 pieces of equipment, chandeliers and  
17 home videos -- home theater systems and then, you know,  
18 swapping a much less valuable item in the return process.  
19 So, yeah, it escalated, if anything.

20 MR. GROOMS: It's absolutely correct that it  
21 escalated and spiraled, as I said. And it did start with  
22 Amazon, it included those other retailers as well, I will  
23 say. And it is, it's a tragic point that this got to the  
24 place it did.

25 Dr. Riyaz is grateful that an intervention



1 occurred here and he had the opportunity to take steps to  
2 address what was untreated, and, as the Court noted,  
3 unfortunately unrecognized, even given the history in this  
4 situation. It is good that it has been addressed. It is  
5 unfortunate it was not sooner so the harm would have been  
6 lesser both to the retailers and also to Dr. Riyaz and his  
7 family.

8 THE COURT: All right. Dr. Riyaz, come up to the  
9 lectern. This is your opportunity to say anything you would  
10 like the Court to consider before sentence is imposed.

11 THE DEFENDANT: Your Honor, thank you for the  
12 opportunity to speak and to consider my perspective.

13 You know, I know, and everyone in this courtroom  
14 knows that I made a terrible mistake. Between 2014 and up  
15 until 2020, I had disputes with Amazon over items that I  
16 purchased and paid for but never received. Because of my  
17 mental health condition, which was not diagnosed nor treated  
18 at the time, I wrongly believed that Amazon had singled me  
19 out for mistreatment. When my efforts to resolve the  
20 matters were not successful, I engaged in a vendetta,  
21 spurred by powerful symptoms that caused me to believe that  
22 the most important thing in the world was to get even. I'm  
23 truly sorry to Amazon and anyone else harmed by my actions.

24 I come before the Court today a fundamentally  
25 different man. In 2020, I sought medical help to understand

1 why I would engage in such a behavior. I began to see a  
2 psychiatrist who diagnosed me with a significant mental  
3 illness. With the benefit now of two years in recovery, I  
4 recognize that my illness clouded my judgment and convinced  
5 me that I was being persecuted by Amazon and predisposed me  
6 to taking bizarre risks and seeking revenge far out of  
7 proportion than what was done to me. My actions were not  
8 based in greed, nor performed for a thrill, nor did I even  
9 enjoy doing them. They were compulsions induced by mental  
10 illness.

11 I now know that Amazon, nor was any other  
12 retailer, trying to persecute nor cheat me. And even if  
13 someone does try and cheat me, I know it is wrong for me to  
14 try to retaliate. I'm endlessly grateful to the detectives  
15 and to Mr. Carlberg for treating me with kindness and  
16 respect, for helping me recognize this problem before it  
17 could cause further damage to Amazon, myself or my family.  
18 I'm also thankful that my illness was identified and treated  
19 before it could affect my patients.

20 People in my life have been so astonished by this  
21 behavior because they knew me as someone who treats others  
22 with care and compassion. Be it family, friends,  
23 colleagues, patients or even strangers. As a surgeon, a  
24 loving husband and a father to a beautiful girl, the  
25 majority of my day is spent making people's lives better.

1 I've reflected deeply upon how this behavior was  
2 missed by me and my family, and I've educated my family on  
3 the signs and symptoms of my condition, and we've created a  
4 system where my family members help monitor my spending and  
5 sleeping patterns to detect a variance in advance. I'm  
6 committed to make sure that nothing like this ever happens  
7 again.

8 I'm sorry to Amazon. I ask you for your  
9 forgiveness, and I hope that my assistance will help others  
10 from engaging in similar behaviors. I'm sorry to my  
11 colleagues for tainting the reputation of physicians. And  
12 I'm sorry to my patients, as their ongoing treatment against  
13 cancer may be disrupted during the most difficult fight of  
14 their lives if I'm incarcerated. Many of my patients are  
15 uninsured, and the thought that they might lose  
16 urgently-needed care because of my actions is unbearable to  
17 me.

18 I'm sorry to my family and my wife whose good name  
19 I've tarnished. And I'm most sorry to my daughter, whose  
20 future I've jeopardized. She means the most of everything  
21 in my life, and as you know, she's developmentally delayed,  
22 and I'm tormented by the idea of losing a single day of  
23 practicing her speech or missing a single night of reading  
24 books together. I'm a healthier and better father now than  
25 I was before my mental health problem was discovered, and I

1 promise never to jeopardize her future again.

2 I accept that there will be discipline from my  
3 professional communities in addition to any sentence that's  
4 imposed today, but I hope that these can be done in a  
5 compassionate way that take into account how I've strived to  
6 do good for my community, how I've taken steps to  
7 maintain -- how I've taken steps to eliminate the root cause  
8 of my behavior and maintain proper health and what I've done  
9 to make amends.

10 I stand today before you, Judge Brinkema, having  
11 acknowledged my wrongs and having sought to rectify them to  
12 the fullest of my abilities. I ask you to consider the  
13 good -- I ask you to consider the good that I'm capable of  
14 doing and to consider the incarceration could result in a  
15 permanent loss in my ability to treat cancer patients or  
16 provide for my daughter for the rest of my life.

17 I believe this would be a great loss for me and  
18 the community. Volunteering and helping the needy,  
19 especially those with poor access to care, gives me the  
20 feeling that perhaps I'm spreading good in this world and  
21 undoing some of the wrong I have done.

22 I don't want to see others suffer from my mistake  
23 that I believe can be fixed. I've resolved to do better for  
24 the rest of my life, and I'm asking for a second chance and  
25 an opportunity to continue my ongoing rehabilitation. I ask

1 earnestly for leniency to allow me to continue my mental  
2 health recovery without interruption and to provide for my  
3 community and family to prove that I've learned from my  
4 mistakes.

5 Thank you very much, Your Honor.

6 THE COURT: Well, Dr. Riyaz, your case is a very  
7 troubling case. Again, I recognize the significant mental  
8 health problems that you have, and I recognize the  
9 significant relationship that it had -- that mental health  
10 condition had to your conduct. That, by itself, would be a  
11 legitimate ground for a variance. In addition, I also am  
12 concerned about your very young child at a very vulnerable  
13 age and the impact that being separated from you for a  
14 significant period of time could have.

15 At the same time, I'm also concerned, and the  
16 Government is correct in pointing out the need, particularly  
17 in white collar crimes, to make it clear to people if they  
18 engage in such conduct, that there are consequences. And,  
19 in particular also, not to set some sort of an image that  
20 the courts allow people who are able to pay their  
21 restitution, you know, upfront to somehow get a better shot  
22 at a more lenient sentence. That would not go well in terms  
23 of the appearance of justice from the courts.

24 All these are factors that have to go into the  
25 sentencing decision. But, at the end of the day, I'm

1 satisfied that a significant sentence of incarceration would  
2 not be appropriate in this case, and I feel therefore that a  
3 significant variance is appropriate.

4           The sentence of the Court is that you will serve  
5 one day in the custody of the Bureau of Prisons. You'll  
6 serve it today at the lockup. I want to make sure you have  
7 the experience of what it's like to hear that cell door  
8 clang behind you, of having to sit on a hard metal bench.  
9 And being behind bars it will give you a day to sort of  
10 think about what's happened to you and what you're facing if  
11 you should re-engage in such conduct.

12           The one day in the custody of the Bureau of  
13 Prisons will be followed by a period of three years of  
14 supervised released. The terms and conditions of  
15 supervision are, first of all, your uniform good behavior.  
16 That means you cannot violate any federal, state or local  
17 laws, and that includes traffic laws; do you understand  
18 that?

19           THE DEFENDANT: Yes, Your Honor.

20           THE COURT: Secondly, you have to follow all the  
21 conditions of supervision, which will be printed on the  
22 judgment order. They were also reflected in the pages 22  
23 through 24 of the presentence investigation report, which  
24 you did go over with your counsel; correct?

25           THE DEFENDANT: Yes, Your Honor.

1           THE COURT: All right. Now, there are multiple  
2 special conditions. The first special condition is that you  
3 will serve the first six months of period of supervised  
4 release under house arrest with such monitoring as the  
5 probation office feels is necessary, and you will have to  
6 pay the costs of whatever monitoring they decide to use; do  
7 you understand that?

8           THE DEFENDANT: Yes, Your Honor.

9           THE COURT: Under that house arrest, you are  
10 allowed out of your home only for the following reasons with  
11 advance permission from the probation office. Obviously to  
12 attend to any medical needs for yourself or your child; to  
13 attend to any employment opportunities that you may have; to  
14 meet with any counselors, your probation officer or any  
15 attorneys; to attend to any bona fide religious activities.  
16 Other than those reasons, you cannot be out of your home for  
17 any reason unless you have received permission in advance  
18 from the probation office; do you understand that?

19           THE DEFENDANT: Yes, Your Honor.

20           THE COURT: Secondly, and obviously, you must  
21 continue to fully engage with such mental health counseling  
22 and treatment as the probation office approves. So they'll  
23 have to -- I'm sure they will be totally comfortable with  
24 the program you've got, but you're going to have to keep  
25 them fully monitored about what's going on. You have to

1 waive any privacy rights that you have to the treatment  
2 program so the probation office can be assured that you are  
3 fully compliant; do you understand that?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: And obviously the costs of any mental  
6 health treatment you must bear yourself; do you understand  
7 that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: All right. I'm also imposing a  
10 requirement that you serve 200 hours of community service.  
11 That's something that you've already somewhat been doing,  
12 but I want that under the control of the probation office;  
13 do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: All right. You will have to provide  
16 access to any and all of your financial information,  
17 including any credit card accounts, any business data so the  
18 probation office can monitor how you are using your  
19 resources to make sure you're not engaging in some sort of  
20 manic purchasing pattern; do you understand that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. The Court finds that there  
23 is no history of abuse of controlled substances, so the  
24 mandatory drug testing is waived; however, at any point, the  
25 probation office can demand a drug test from you, and you



1 must comply; do you understand that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: I find that you do have the financial  
4 resources to pay a fine in this case. I'm imposing a fine  
5 of \$20,000, which must be paid within the next 90 days; do  
6 you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: In addition, of course, there is the  
9 \$100 mandatory special assessment that must be paid if it  
10 has not already been paid; do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right. Are there any other  
13 conditions of supervision, Mr. Carlberg, that the Government  
14 would be requesting in this case?

15 MR. CARLBERG: No, Your Honor.

16 THE COURT: All right. Mr. Grooms, is there  
17 anything further you want the Court to address?

18 MR. GROOMS: No, Your Honor. Thank you.

19 THE COURT: All right. The last thing I want to  
20 just advise you is that although under your plea agreement  
21 you waived, which means you gave up your right to appeal  
22 both your conviction and your sentence, you still have a  
23 right to file an appeal. If you're going to do so, the  
24 notice of appeal must be filed within 14 days of today's  
25 date.

Mr. Grooms, you are required to discuss those options with your client. And if you cannot afford an attorney, since you do have a right to counsel for the appeal process, one would be appointed for you; do you understand that?

THE DEFENDANT: Thank you.

THE COURT: All right. Then you're remanded at this time in the custody of the United States Marshal who will release you towards the end of the day.

THE DEFENDANT: Thank you.

THE COURT: All right.

(Proceedings adjourned at 10:22 a.m.)

I certify that the foregoing is a true and accurate transcription of my stenographic notes.

Stephanie Austin

Stephanie M. Austin, RPR, CRR